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Guidelines for Implementation of Amended I.J.R. 19

The Idaho Supreme Court recently amended I.J.R. 19. This action was taken as an emergency action to help with the State's financial crisis by assuring every effort is made to use community-based programs for juvenile offenders prior to the commitment of a juvenile offender to the Idaho Department of Juvenile Corrections whenever safe for the community and appropriate.

The amendment requires a screening team be convened before a juvenile offender is committed to the Idaho Department of Juvenile Corrections. The amendment to I.J.R. 19 notes the composition of the team and the factors the team is to consider.

These guidelines have been developed to assist in the implementation of amended I.J.R. 19.

Team Composition, Convening the Screening Team, and Information Sharing

Guidelines for Team Composition

The screening team **shall** consist of representatives from:

- County juvenile probation office;
- Idaho Department of Juvenile Corrections;
- Idaho Department of Health and Welfare;
- In addition the screening team **may** include the prosecuting attorney, the defense attorney, local school officials, and any other persons that the court may deem appropriate including parents, custodians or guardians of the juvenile.
- The Idaho Department of Health and Welfare will determine which of its divisions will participate on the screening team depending upon the nature of the case.
- The county probation officer will be the responsible person for assuring the team convenes and is responsible for the written report to the court unless otherwise ordered by the court.

Guidelines for Convening the Screening Team

- The court can enter either a written order or an order on the record convening the screening team.
- I.J.R. 19 as amended does not require face-to-face screening team meetings. Teleconferences or other means to consult can be used.
- Delays should not occur due to a team member's inability to meet or prepare written recommendations. Judges, through their convening orders, can set time limits for team members to consult. Any delay may result in additional expense to some counties and a delay in getting the juvenile offender into treatment.

Guidelines for Sharing Information

- Participants shall share relevant information concerning the juvenile offender with other screening team members. All such information shall be maintained as confidential pursuant to Idaho Administrative Court Rule 32. A Release of Information can be used to obtain parental or other confidential information if needed.

Assessments:

Facts may be best developed from assessments and/or evaluations that are appropriately shared by the team. However, assessments and evaluations should not drive the process. They are only instruments to help professionals focus on important facts that can be appropriately gleaned from the instruments. The juvenile and their family should not be, as one professional put it, "assessed to death." I.J.R. 19 only specifies assessments or evaluations "ordered" under § 20-520(i) and § 20-511A be completed and made available to the team. The screening team should determine if other assessments or evaluations may be helpful. Clearly many teams may want to use a risk or a risk and needs type assessment instrument.

The intent is not to slow the process down to acquire assessments, other than § 20-520(i) and § 20-511A assessments and evaluations already ordered by the court. Those requests will have likely come from probation officers at the time the youth is adjudicated or in the case of § 20-511A at a time prior to adjudication.

Factors for Screening Teams to Evaluate

- **The risks to the community if the juvenile offender is not committed;**
- **The needs of the juvenile and juvenile's family using a strengths based approach;**
- **Any community based programs that might be available to address the risks and needs of the juvenile and their family; and,**
- **The juvenile and their family's abilities, barriers and commitment to participation in the community based programs identified.**

Guidelines for Communication Concerns

- Communication between the team members must be both efficient and effective. Efficient communications should be timely but not time consuming and to be effective the communication should be concise and complete.
- Respect the opinion of each team member and value the different viewpoints each brings to the case.
- Be fair and give everyone a chance to speak in the deliberations.
- Be willing to change your mind.
- Listen carefully to one another and do not let yourself be pressured into changing your opinion; do not bully anyone else.
- Do not rush into a finding or recommendation for any reason. The juvenile and the court deserve your complete attention and thoughtful deliberation.
- The communication between the team members should focus on evaluating the factors noted in I.J.R. 19(d) as stated above.
- Any agreement or disagreements of facts about the factors should be noted in the written report.
- Opinions based on experience with the juvenile and their family are valuable and should be expressed without limitation in communications.
- Consensus on the factors may be reached but is not required.

Reports to the Court

I.J.R. 19(e) provides, “The county probation officer or other court designee shall prepare a written report to the court summarizing the screening team’s findings and recommendations.”

Guidelines for Reports to the Court

- The report need only be a summary of the team’s findings and recommendations.
- There is no established format for the report to the court. Probation officers are already required, unless waived by the court, to submit social histories. The I.J.R. 19 report may be included in that report to the court as an addendum or as a part of the social history report.

- One format for the report would be:

➤ **Heading**

➤ **Team member identification**

➤ **Team findings on:**

1) the **risks** to the community if the juvenile is not committed to the Idaho Department of Juvenile Corrections;

2) the **needs** of the juvenile including but not limited to mental health or substance abuse treatment; parental, guardian or custodian engagement in counseling and treatment designed to develop positive parenting skills and an understanding of the family's role in the juvenile's behavior;

3) what **community based programs** or alternatives can address the needs and risks identified, if any; and,

4) the juvenile's and parent's, guardian's or custodian's **abilities, barriers and commitment to participation** in the community based programs identified.

➤ **Team recommendations**

➤ **Opposing team member findings and recommendations on risk, needs, community based programs and abilities, barriers and commitment to participation on the part of the juvenile and the juvenile's family**

Waiver of I.J.R. 19 Requirements

Concerns have been expressed that judges should retain the power to waive the requirements of I.J.R. 19 in certain cases.

Guidelines for Waiver of I.J.R. 19

Idaho Juvenile Rule 21 provides that certain Idaho Criminal Rules apply to juvenile cases. I.C.R. 27 is included in the list of applicable rules. I.C.R. 27 states in pertinent part, "The parties to any action may present to the court a stipulation as to any procedural matter involved in any proceeding..." This rule would seem to give the attorneys authority to submit a stipulation to the court to waive the requirements of I.J.R. 19. The judge would retain the authority to grant or deny the request under that rule. The Idaho Supreme Court by adopting the changes to I.J.R. 19 has noted the need for the court to receive information on the factors in I.J.R. 19(d). Waivers should not be granted without the court having the information about the juvenile and the juvenile's family as set forth in I.J.R. 19(d).

Attachments:

Release of Information Form

Draft Screening Team Report Form

Guidelines for Implementation of Amended I.J.R. 19

Pre-Commitment Screening Team Report

Date of Screening:

Juveniles name:

D.O.B.:

Case Number(s):

Team Members:

Probation _____

IDJC _____

DHW _____

others _____

Screening/Assessment Available:

CAFAS Score _____

GAIN Administered _____

YLSI-CMI Score _____

Other _____

Summary of Team Findings

- Identified risk to the community if juvenile is not committed:
- Identified needs of the juvenile and family with a strength based approach:
- Any community based programs that might be available to address the risks and needs of the juvenile and their family:
- The juvenile and their family's abilities, barriers and commitment to participation in the community based programs identified:

Recommendations:

- Strategy to reduce Community Risk:
- Strategy to meet juvenile and family needs identified:
- No Commitment ☐ Suspended Commitment ☐ Commit ☐
- Alternative recommendations from team members:

Date Submitted to the Court:

**MULTI-PARTY/AGENCY AUTHORIZATION FOR RELEASE OF INFORMATION FOR
COURT ORDERED ASSESSMENTS UNDER IDAHO CODE §§ 19-2524 AND 20-511A**

Legal Last Name	First Name	MI	Date of Birth
Other Names Used			Case ID#

I, _____ voluntarily authorize and specifically request the presiding judge, the prosecuting attorney/deputy attorney, public defender/other defense counsel, and any employee or agent of the Idaho Department of Juvenile Corrections, the Idaho Department of Health and Welfare, law enforcement or county juvenile justice agencies, other educational, vocational, medical or health care providers or agencies to release, use, disclose, receive, communicate to one another, or mutually exchange the following information or records about me:

All of my health care information, mental health, medical records, laboratory/diagnostic tests, from all sources and any other information to include:

By placing my initials in the spaces below, I specifically understand that the following highly confidential information or records will be released, used, disclosed, received, mutually exchanged or communicated to, by, among, or between any person, entity, or agency named in this authorization:

HIV/AIDS ____ Mental Health ____ Alcohol/Drug ____ Genetic ____ STD ____ TB ____

I have read this authorization/had this authorization read/explained to me and I acknowledge an understanding of the purpose for the release of information. I am signing this authorization of my own free will. I understand that this authorization will allow my treatment team to plan and coordinate services I need, to impose appropriate sanctions or rewards based on my behavior, to submit billings for services, to audit, evaluate, or conduct legitimate research about drug treatment services and effectiveness, and will also allow any person, entity, or agency named in this authorization to be actively involved in my case coordination, evaluation, treatment, planning, or legal proceedings. I further understand that some or all of this information will be discussed in open court, a public forum, where any person in the courtroom may hear the information. I hereby request and give my permission for an open exchange of information to, by, among, or between, the presiding judge, the prosecuting attorney/deputy attorney, public defender/other defense counsel, and any employee or agent of the Idaho Department of Juvenile Corrections, the Idaho Department of Health and Welfare, law enforcement agencies or county juvenile justice agencies, other educational, vocational, medical or health care providers or agencies.

I understand that this information may include material protected under federal regulations governing confidentiality of alcohol and drug abuse patient records, 42 C.F.R. Part 2, and the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 45 CFR Parts 160 & 164 and cannot be disclosed without my written consent, unless otherwise provided for in the regulations. I can revoke this authorization, in writing, at any time, except to the extent that action has been taken in reliance upon it and with the understanding that such revocation will end my participation in treatment, which may result in the imposition of criminal sanctions. Although HIPAA requires that consents be revocable, 42 C.F.R. § 2.35 provides that if I am mandated into treatment through the criminal justice system or I am under legal/court supervision/probation, this authorization will remain in effect and cannot be revoked by me until there has been a formal and effective final disposition of the case that mandated me into treatment. I also understand that if I do not comply with treatment, my non-compliance will be reported to the judge and the prosecuting attorney/deputy attorney. A photocopy or exact reproduction of this signed authorization shall have the same force and effect as this original.

Full Legal Signature of Client or Authorized Personal Representative	Relationship to Client	Date
Full Legal Signature of Parent or Legal Guardian.	Relationship to Client	Date
Name of Staff Person (print)	Initiating Agency Name/Location	Date

PROHIBITION ON RE-DISCLOSURE: This information has been disclosed to you from records, which may be protected by federal confidentiality rules (42 CFR Part 2). If the information is so protected, the federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the release of information is NOT sufficient for this purpose. Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

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